HIGH COURT OF UTTARANCHAL AT NAINITAL
Criminal Misc. Application No. 455 of 2005

Raj Kumar S/o Amar Nath
R/o Main Bazar
Laksar P.S. Laksar
District Haridwar ……..Applicant

Versus

1. State of Uttaranchal
2. Sanno S/o Azmuddin
R/o Main Bazar Laksar
P.S. Laksar
District Haridwar ……..Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri K.S. Verma learned counsel for the applicant and Sri Nandan Arya learned A.G.A.

2. The petition under section 482 Cr. P.C. has been filed against the order dated 8.4.2004 passed by IInd Add. Civil Judge (J.D.), Rookee in criminal case No. 143/2004 Sanno Vs. Raj Kumar & others under Sections 147, 323, 452, 504, 406 IPC.

3. The factual position in a nutshell is that the respondent No.2 filed a compliant against the applicant and others before the IInd Addl. Civil Judge (J.D.)/J.M., Roorkee on 22.3.2004 under Section 147, 452, 323, 504 & 506 IPC alleging therein that the incident took place on 3.3.2004 in which the applicant caused the injures to the respondent No.2. Thereafter, the respondent no.2 was medically examined. Statement was recorded under sections 200 & 202 Cr.P.C. On the basis of the said compliant, the learned IInd Addl. Civil Jude (JD)/Judicial Magistrate summoned the applicant & others vide its order 8.4.2004. Feeling aggrieved by the said order, the applicant preferred the present petition.

4. The learned counsel for the applicant contended that there is no prima facie case against the applicant & others. The learned counsel for the applicant further contended that statement of the witnesses does not reveal that the offence was not committed by the applicant. The learned A.G.A. refuted the contention and contended that the complaint clearly disclose that there is prima facie case against the accused at this stage. It is admitted that there is a cross-version of the incident. It has been held by the Hon'ble Apex Court in **M. Narayandas Vs. State of Karnataka 2004 Cri. L.J. p/822** that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprise. It has also been held in **State of Karnataka Vs. M. Devendrappa & another 2002(2) SBR p/151** that while exercising jurisdiction under section 482 Cr. P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is function of the trial court.

5. It is not permissible for the High Court to look into materials, the acceptability of which is essentially a matter of trial. While exercising jurisdiction under section 482 Cr. P.C., it is not possible for this Court to

act as if it is a trial Court. {**State of M.P. Vs. Awadh Kishore Gupta and others SCC (cri) 2004 p/353}.**

5. In view of the above, the petition lacks merit and is dismissed.

(J.C.S. Rawat, J.)

Dated 22.07.2005

LSR